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In re Application of :
BUDHU, et al. :
Application No.: 10/505,257 : DECISION ON PETITION
PCT No.: PCT/US03/05947 :
Int. Filing Date: 27 February 2003 : UNDER 37 CFR 1.10(c)
Priority Date: 01 March 2002 :
Atty. Docket No.: 21044P :
For: AMINOALKYLPHOSPHONATES AND :
RELATED COMPOUNDS AS EDG RECEPTOR :
AGONISTS :
:

This is a decision on applicant's "Petition to Correct Filing Date Pursuant to 37 C.F.R. § 1.10(c)" filed 27 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 February 2003, applicant filed international application PCT/US03/05947 which claimed priority to an earlier U.S. application filed 01 March 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 September 2004.

On 12 January 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 19 August 2004.

On 27 January 2006, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 20 August 2004.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the

correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "08/20/04 5:00pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 27 February 2003 under 35 U.S.C. 363 and a date of **20 August 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 12 January 2006 indicating a date of 19 August 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the correct 371 date as detailed above.



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